



Waterford-East Lyme Shellfish Commission
 Waterford Harbor Management Commission
 East Lyme Harbor Management/Shellfish Commission
Special Meeting Minutes
 Thursday, December 7, 2017
 Waterford Community Center, 7:30 pm



FILED

Dec 11 2017 AT 3:40 AM/PM
 [Signature]
 EAST LYME TOWN CLERK

Members present: Peter Harris, Larry Tytla, J. Patrick Kelly and Eric Kanter

Absent: Fred Grimsey, Paul Spakowski and Tom Bowlen

Guests: Attorney Robert Avena, Dan Cunningham Ex-Officio WELSCO and Dan Steward
 First Selectman of Waterford

- 1) The meeting was called to order at 7:30 pm. Mr. Harris stated this was a special meeting of three commissions: Waterford East Lyme Shellfish Commission (WELSCO), Waterford Harbor Management Commission and the East Lyme Harbor Management Shellfish Commission. He established a quorum was present for both WELSCO and the Waterford Harbor Management, but East Lyme Harbor Management Shellfish Commission did not have a quorum and would therefore not be commenting on the discussion under the Commission portion; but may comment under public input.
- 2) The Pledge of Allegiance was recited.
- 3) Mr. Harris reviewed the reasons for bringing the three commissions together: to have an open discussion related to aquaculture project proposals within Niantic River. A map showing the six areas in the river approved per the WELSCO 2002 Aquaculture Plan was available. WELSCO's position is that they believe in having an area within the Niantic River for commercial aquaculture projects. The process will include review of everyone's concerns and public awareness in order to find an area amenable to everyone.

Waterford Harbor Management introduced their members present: Eva Bunnell, Brian Lynch, Richard Miller Deputy Harbor Master, Robert Dutton, Phillip Fine, James Hamsher, Robert DeRosa and Jane Adams Chair.

WELSCO member introductions included: Peter Harris Chair, Rick Kanter (also a member of the East Lyme Harbor Management Shellfish Commission), J. Patrick Kelly Co-Chair and Treasurer and Larry Tytla.

Other introductions included: Robert Avena Town Attorney for Waterford, Dan Cunningham Ex-Officio of WELSCO and Dan Steward, First Selectman of Waterford.

Attorney Avena explained the commissions' intent is to begin a new process bringing together multiple jurisdictions. He noted this was not a public hearing and there is no current aquaculture application under consideration. WELSCO has rescinded the action to create Area 7 and its consideration of the application for an aquaculture project with Niantic Bay Shellfish Farm (NBSF). However, this doesn't mean NBSF is not still interested in pursuing a project. Everyone is invited under FOI to listen to the meeting. Attorney Avena provided an overview of the meeting: to review WELSCO areas 1-6 to discuss common jurisdictions and responsibilities and to introduce the commissions to the public. He noted the DEEP, the Army Corp of Engineers and the DA/BA are supportive of aquaculture. The discussion will also consider the structures

and/or bags to be used, the aquaculture benefits, public access and safety concerns. With the many uses in the river, this would be an additional use. WELSCO authority is to look at shellfish activity in the river, to protect the river and enhance population of shellfish. The CT Statutes tend to look at water dependent uses. WELSCO needs to balance products, environment, shellfish and the health of the river. East Lyme Harbor Management controls the East Lyme portion of the river. The Niantic River is divided between them and Waterford Harbor Management Commission. WELSCO overlaps the river. Waterford Harbor Management has a separate Harbor Management plan as does the East Lyme Harbor Management Shellfish Commission. THE ACOE and DEEP oversee the navigation in the river and require all local commission approval for any applications that are presented. Both Towns do have leases outside of the Niantic River currently that the public may not even be aware of. The leases are for placing product, harvesting product; and do not contain gear and are in deeper water. There are challenges of sharing the river. Some shellfish propagation may enhance the river, while public safety and competing public uses affect the consideration of gear placement and depth. One challenge is that a Commercial shellfishing enterprise investing in product and gear would not find the one year experimental restrictions of WELSCO to be economically viable, rather the enterprise would look to a five year operating commitment. The second challenge would be the multiple approvals of an operation. Projects brought to WELSCO for approval then need to be approved by the Board of Selectman and then RTM in the Town of Waterford as well as to be considered by the Waterford Harbor Management Commission. The Town of East Lyme requirement is that the East Lyme Harbor Management Shellfish Commission and WELSCO both agree and approve projects in East Lyme. In the future if WELSCO proposed a change to the 2002 Aquaculture Policy Plan to include commercial lease activity or to add additional locations, WELSCO would need to post public notices along the river and provide for other public notice and a public hearing. It would be a long process. ACOE, DEEP and the DABA respect the local jurisdictions and understand all applicants need local authority and state approval.

The ACOE hearing was postponed and no other information is available. WELSCO Area 7 is rescinded completely and the only areas available are 1-6 as seen on the map and have been in existence over 15 years as possible aquaculture sites. The Waterford Harbor Management Commission is charged with a variety of responsibilities and is involved in commercial lease projects from Niantic River to Montville up to the Thames River; pending application goes to them for comment and then referred back to the other commissions. Commissions are to operate within their jurisdictions by referring to their charges within their plan. Dave Crocker is Harbor Master, LT. Burton is the Marine Officer and Richard Miller is Deputy Harbor Master on the Waterford Harbor Management Commission and entrusted to keep order within their jurisdiction.

This is not a public hearing but a meeting to explain what the commissions are and they all share the river with separate responsibilities that are sometimes overlapping. WELSCO areas 1 -6 are within Waterford and East Lyme waters. Mr. Harris and Ms. Adams will discuss background and information on eelgrass and other concerns in the river.

Ms. Adams stated the Waterford Harbor Management Plan identifies aquaculture as a priority with designated shellfish resource areas and that the commission understands the benefit of aquaculture to the river. However, recognizing that priority does not mean that an aquaculture project has carte blanche in the river. The river is a fragile eco system shared by many which must be protected and that may influence the optimal size of a project within the river. Among the commission's mandates are protection of intertidal flats, submerged aquatic vegetation, maintain public safety and ensure public access, and these will factor into consideration of an

aquaculture proposal. Ms. Adams asked other Waterford Harbor Management Commission members if they had any remarks.

Mr. DeRosa's stated that his number one concern is safety. Rebar is used in building the structures; it is very rugged but not safe. Boaters, water skiers, paddleboarders and kayakers could be injured by rebar if they fall and land on cages or the rebar. This is not a commercial river but a recreational river. Studies need to be completed by an environmental specialist that includes analysis of the impact on the river.

Mr. Kelly responded that the DA/BA and DEEP have sanitarians and Marine Biologists which is part of the process to approve any project. There is an environmental review done. The ACOE and Coast Guard have standards for cautionary marking for these type of projects, including lights and markers or buoys. He explained Capt. John Wadsworth's prior projects required reflective markers. Currently we cannot obtain any out of state scallops and years ago bought from Peconic Bay Long Island. He noted the oysters are filter feeders and cleanse the water; thereby nourishing other marine life. WELSCO is a state chartered commission. In the 80's a lawsuit was pending against WELSCO; both Town's had been named in the lawsuit, both Town Attorneys and Bonding Company said WELSCO was not a Town Agency; the Attorney General stated WELSCO was a private corporation. WELSCO hired a local attorney and it was very costly to win the multiple lawsuits. Any application for docks requires DEEP, DA /BA and ACOE approval.

Ms. Adams noted that the CT General Statutes specify the communication necessary when Harbor Management Commissions and municipal agencies have shared jurisdiction. That communication includes at least 35-day notice prior to public hearing or an agency taking an action regarding a proposal. It is important that our commissions communicate going forward.

Mr. Miller was on WELSCO previously and currently serves on the Waterford Shellfish Commission and is the Deputy Harbor Master on Waterford Harbor Management. He worked with Capt. John Wadsworth many years ago. He explained the setup and the work involved noting many volunteers. A lot of hard work, and that even though the area was marked off it had problems with boaters going through at night. WELSCO area 1 and 2 should be considered as low traffic areas and there is no public property adjacent.

Mr. Hamsher- Stated that he only recently became aware of the existence of the WELSCO areas 1-6. He is happy the process is going forward; it will be a good to work together.

Ms. Bunnell – Stated she is happy that the commissions have come together. She looks forward to a coherent process with all commissions and that we all have access to paperwork analyzing a project as we all want to protect the river.

Mr. Kelly noted in the 80's Dr. Short from University of ME and Project O ran tests that found a problem in the river with nutrient loading. Mr. Grimsey is testing for clarity with Save the River, Save the Hills. There is a lot of algae blooming. In the 70's eelgrass was actually blasted from the river. He noted Jet skis stir up eelgrass and kill the bottom. Many homes in river have docks; pilings have creosote and it's detrimental to the marine environment. Oysters and scallops at adulthood spawn would go into river and filter feed the river.

Mr. Dutton inquired about obtaining the environmental reports from the ACOE and DEEP. Mr. Kelly stated WELSCO doesn't have their reports. Attorney Avena stated that under FOI he will ask for reports from DEEP and ACOE.

Mr. Kanter has been on WELSCO for 20 years; back about 20 years ago the Mohegan Indians wanted to do big project, but some didn't want them in the river as it is a small place. WELSCO came up with the 2002 Aquaculture Policy Plan; it was written to preclude a giant operation to get into the river; but not a small experimental project. The many uses in the river is a good thing- boating and scalloping. The Day newspaper and Tessa Getchis from SeaGrant at UCONN recently posted information on aquaculture benefits and projects. He stated that increasing the mass of shellfish in any area is a good thing. A magazine titled Racklines has pertinent information on aquaculture and its benefits. WELSCO has never asked for dollars but product in kind as payment for the experimental projects they have approved in the past. He noted the importance of cleaner water and people wanting more shellfish products. A project proposal using rebar could instead be required to use an alternative type of anchor to address safety concerns. In his opinion Niantic River is very productive and has a lot of eelgrass. WELSCO areas 1 – 6 can be moved, deleted and contracted. WELSCO would try to minimize impact on alternative uses with any applicant.

Mr. Kelly discussed the areas for projects at last WELSCO meeting noting they were leaning toward Area 2 that has 10.5 acres and Area 5 which is 5 acres. Per the town planner there is 1041 acres in the river; from Oswegatchie to the peninsula is about 700 acres. Ms. Adams is concerned as this is a shared river and the size and magnitude of an aquaculture plan to jump to 6 acres seems excessive when people want to have continued access to the river. Automatically assuming 6 acres is a good size- needs to be further discussed. Mr. Kelly noted the NBSF wouldn't need the entire 6 acres but it would need to be restricted. The east side of Area 2 is a closed section.

Mr. Tytla noted an upcoming proposal would need to address all the concerns such as rebar and safety. He noted WELSCO was originally skeptical of the NBSF proposal but there were many meetings before WELSCO made a decision. All shellfish literature on shellfish notes the improved water quality; shellfish won't clean up all the river but it will definitely help. The statement that "Commercial enterprise is personal and only helps the owner" is untrue as it is a resource to benefit everyone. In addition to all the practical issues; is this something that the commission feels has value. Most shellfish operations you see have mostly buoys and not the structures.

Mr. Miller noted that James Markow had an experimental project that brought in product from And put spawn back in river; which does benefit everyone. He is concerned where a project is located and that it not be a burden on public.

Mr. Lynch discussed safety and the congestion in the river and that many uses in the river are important items. He inquired would Area 6 be a possible location to use. The river has changed a lot over the years. We need to come to an agreement on what areas are best for a project.

Mr. Tytla noted too much silt in WELSCO Area 6. Mr. Kelly addressed the 2002 Aquaculture Policy Plan.

Mr. Kelly stated NBSF plan was an agreement (experimental project), no lease was written, WELSCO only approved the concept. Mr. Londregan was fully aware he had to get other local commission, DEEP, Army Corp of Engineer and any other agency approval. WELSCO was not given a copy of the notice of his application that the public had received from the Army Corp of Engineers, and he was surprised Mr. Londregan did not get the Waterford Harbor Management Commission's approval.

Mr. Tytla noted the plots were the best of 2002 thinking in the Policy Plan. If there is a possibility to add or change we would need to go through all the proper channels.

Ms. Bunnell requested the criteria on how the 2002 Aquaculture Plan was created.

4)Public Input –

Ron Rando (E Lyme) The sewers were done in East Lyme and Pine Grove. Oswegatchie and Latimer Brook are not sewerred; need to save the river and supports shellfishing.

Peter Green (Waterford) Chair of the Waterford Utility Commission; the Waterford side of Oswegatchie is sewerred.

Robin Lineberger (Waterford) We need a process, set of criteria or framework was not achieved. He agrees with evaluating safety and environmental impact studies; look into another area for aquaculture, one that would not harm local businesses.

Taras Pleskuy (Mystic) Graduate of marine biology; spoke of new generations being raised with pride and unity, US has the best shellfish.

Chris Mullaney- Observation expressed opinions on water studies; feels commissions should get together soon and work things out

John jasper- PHD Oceanographer on Board of the Niantic River Water Commission glad to hear information on understanding the river, too much nitrate in river causes excess productivity and plant growth; need to understand aquaculture and what is good for the river; oyster and shellfish remove excess nitrogen and phytoplankton which will help overall quality of river.

Steve Turner (Mystic) Operates an East Lyme restaurant and serves many Niantic bay oysters- 20-30 years ago family scalloped in Niantic Bay- best to serve Niantic bay scallop at his restaurant.

Ellen Fratus (Waterford) Any project must consider other businesses in Mago Point; the size and the gear would not benefit the businesses.

Beth Olsen (Waterford) Are there online resources to view the map of WELSCO areas 1-6 available? Mr. Harris stated he would work put them on the Towns of East Lyme and Waterford on their websites.

Wally Olsen (Waterford) Interested in how much the shellfish in Niantic River would improve water quality. Mr. Jasper noted it would improve in the area but it would and best to spread oyster over bigger area.

Jane Wadsworth (Waterford) Commented on 6 acres being a large area and it is relative to the public concerns as to what area is used.

Ivy Plis (Waterford) A local realtor- main concern is aesthetics along the river. Would like to see scallops come back and be done right. What is next step, is Mr. Londregan interested in another project and are any future meetings public? Mr. Harris stated Mr. Londregan is still interested

and WELSCO would like to work to find an area that is agreeable and work with both East Lyme and Waterford Harbor Management Commissions. The meetings are always open to the public.

Mr. Tytla expressed concern regarding pictures of a commercial aquaculture project site after a storm in an unknown location that has been circulated. Mr. DeRosa noted that the picture was meant to show the vulnerability of aquaculture to storms or weather.

Ms. Adams corrected a statement of Mr. Harris: WELSCO is not charged with finding a commercially viable location for a business but to encourage and facilitate research on the river; WELSCO's mandate is experimental aquaculture. Ms. Adams summarized what would be helpful going forward: 1) It would be helpful to know the criteria that was used to identify the size areas; and the factors that were considered; 2) If the Towns (East Lyme and Waterford) had a clean sheet of paper, what sites would they encourage or discourage; and 3) What are the prerequisites necessary for consideration of an aquaculture project, the type of environmental analysis, analysis of type of structure or gear; and concentration or eelgrass studies.

Attorney Avena met with DEEP officials that stated they don't have any standard for gear and structures in estuary for aquaculture. There will be a meeting in January and one topic will be standards and procedures, what type of application and information is needed and be comprehensive. As we go forward need to look into projects as they would be a positive benefit but location is important aspect.

The meeting was adjourned on a motion by Mr. Harris at 9:15 pm.

Respectfully submitted,

Amy Tinker
Secretary